Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System	)	PS Docket No. 15-94
	)	
	)	
Wireless Emergency Alerts	)	PS Docket No. 15-91
	)	

COMMENTS OF AT&T

AT&T Services, Inc., on behalf of itself and its affiliates (collectively, "AT&T"), submits these comments in response to the Federal Communications Commission's ("FCC" or "Commission") Further Notice of Proposed Rulemaking ("FNPRM") seeking comment on potential improvements to the Wireless Emergency Alert ("WEA") system.[1]

I. INTRODUCTION

The WEA system serves as an important tool for disseminating critical and sometimes lifesaving information to millions of wireless consumers. WEAs have been extremely successful in alerting the public to significant events in their vicinity, particularly where time is of the essence. Since first deployed in April 2012, the WEA system has been used to "issue over 33,000 emergency alerts, including severe weather warnings, evacuate and shelter-in place alerts, and America's Missing: Broadcast Emergency Response (AMBER) Alerts."[2] Through its

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[1] *Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System*, Report and Order ("R&O") and Further Notice of Proposed Rulemaking ("FNPRM"), FCC 18-94 (rel. July 13, 2018).

[2] *Wireless Emergency Alerts, Amendments to the Commission's Rules Regarding the Emergency Alert System*, Second Report & Order & Second Order on Reconsideration, 33 FCC Rcd 1320, ¶ 2 (2018).

commitment to ensuring the efficacy of WEAs, the wireless industry has enhanced the value of WEA messages by geographically targeting alerts and supporting the inclusion of embedded references, such as URLs and phone numbers.[3]

Nevertheless, wireless carriers are but one link in the chain. By statute, the WEA system works as a voluntary service where alert originators provide an alert's content and the carrier delivers the alert to the user device. While AT&T shares the Commission's concern about subscribers not receiving WEAs, the broadcast nature of the service and numerous technical challenges make measuring and improving performance difficult.

AT&T looks forward to working with the Commission to evaluate reasonable and practical ways that the WEA system can be improved, so that subscribers can continue to receive timely and potentially lifesaving information on their mobile devices.

II. WHILE CARRIERS MAKE EVERY EFFORT TO ENSURE WEAS ARE DELIVERED TO SUBSCRIBER HANDSETS, THERE ARE MANY REASONS WHY THEY MAY NOT BE RECEIVED.

AT&T agrees that "[a] comprehensive wireless mobile alerting system" can "help the public avoid danger or respond more quickly in the face of crisis, and thereby save lives and property."[4] Therefore, AT&T shares the Commission's concern about delayed or failed transmission of WEAs.[5]

However, the WEA ecosystem places practical limitations on any improvements the FCC may seek to implement through wireless carriers. Obtaining accurate performance information,

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[3] Parties Asked to Refresh the Record on Facilitating Multimedia Content in Wireless Emergency Alerts, Public Notice, PS Docket Nos. 15-91, 15-94, DA 18-302 at 2 (2018).

[4] *The Commercial Mobile Alert System*, Third Report and Order, 23 FCC Rcd 12561, ¶ 4 (2008) ("2008 R&O").

[5] FNPRM, ¶ 47.

including delivery rates, presents challenges due to the one-way nature of the service. Carriers push out the alert to subscriber handsets and do not receive any information back to confirm receipt or indicate failure of delivery, making it difficult to determine what caused a failed delivery to a consumer handset. In fact, examining the reason for failure would require AT&T to put the device in debug or logging mode—modes not currently enabled on consumer devices by device manufacturers—which, in isolation, makes it impossible for a network provider to identify the causes of any particular failure.

In addition, there are multiple reasons why a subscriber device may not receive a WEA, most of which are outside the control of the wireless provider. First, receipt of WEAs is voluntary. Section 602 of the WARN Act provides that "[a]ny commercial mobile service licensee electing to transmit emergency alerts may offer subscribers the capability of preventing the subscriber's device from receiving such alerts, or classes of such alerts, other than an alert issued by the President."[6] In turn, the Commission's rules allow "[t]he customers of wireless providers that participate in WEA" "the right to opt out of receiving all WEA messages other than Presidential Alerts."[7] Such optionality was "the clear intent of Congress" and must be considered in any examination of the delivery of WEAs.[8]

Second, there are a number of technical reasons why a WEA may not reach an intended recipient. As the FNPRM acknowledges, a device may be outside of a wireless network's

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[6] Warning, Alert and Response Network ("WARN") Act, Title VI of the Security and Accountability For Every Port Act of 2006, Pub. L. No. 109-347, 120 Stat 1884, §602(b)(2)(E) (2006).

[7] FCC, Hawaii Emergency Management Agency False Alert Report and Recommendations: A Report of the Public Safety and Homeland Security Bureau at ¶ 11 (PSHSB 2018), *available at* https://www.fcc.gov/document/fcc-releases-report-hawaii-false-emergency-alert (citing 47 C.F.R. § 10.280(a)).

[8] 2008 R&O, ¶ 42.

coverage area.[9] Similarly, the user may be on a phone call or actively receiving data when on a 3G Network. Another factor impacting the routing of WEA is the fact that mobile receivers are designed to tune to the strongest available signal. AT&T agrees with the Commission that a "consumer inside the geo-targeted area may be served by a tower outside the geo-targeted area."[10] Finally, the user may have an international device that does not conform to the U.S. WEA standards. Indeed, as the U.S. deviates from international specifications for the WEA system, more interoperability issues may arise.

That said, AT&T disagrees with the Commission's suggestion that wireless network congestion typically would impact WEA performance.[11] AT&T submits that network congestion has not been known to cause failures on the control channels that carry WEAs.

Despite these challenges, AT&T has attempted to understand and address the reasons for WEA delivery failure. All AT&T-sold devices are tested for WEA delivery in the lab and field prior to release. At the network level, AT&T also uses predictions of sector coverage area (dependent on type of cells such as rural, micro, urban, suburban etc.) to ensure WEA messages are being pushed out to the correct cell sectors that best approximate the desired alert area. In short, AT&T has taken steps within its control to ensure delivery of WEAs to subscriber handsets.

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9 FNPRM, ¶ 46.

10 *Id.*

11 *Id.*

III. THE COMMISSION SHOULD NOT ESTABLISH WEA PERFORMANCE BENCHMARKS.

AT&T urges the Commission to avoid "adopt[ing] technical standards (or benchmarks) for WEA performance and delivery."[12] As noted above, there are myriad reasons for WEA delivery failure. Once a carrier broadcasts the alert, many barriers outside of the control of the carrier may prevent a consumer from receiving and viewing an alert. Establishing network performance metrics will not address the issues that can lead to failed deliveries.

Instead, tackling the problem of failed deliveries necessitates a holistic approach, involving the Commission, the Federal Emergency Management Agency ("FEMA"), alert originators, wireless carriers, network equipment vendors, and handset manufacturers. The Commission could undertake an industry-wide effort to test the WEA system, determine success rates, and learn more about the factors resulting in failed deliveries. For instance, the upcoming FEMA and FCC test of the Emergency Alert System ("EAS") and WEAs could present such an opportunity, particularly given that the WEA test will be a Presidential Alert from which users cannot opt out.[13] Indeed, wireless providers and emergency managers have already undertaken significant coordination in preparation for this test.

IV. IF ADDITIONAL FALSE ALERT REPORTING IS REQUIRED, ALERT ORIGINATORS ARE BEST POSITIONED TO PROVIDE SUCH INFORMATION.

Should the Commission extend false alert reporting to WEA messages, wireless carriers should not have an affirmative reporting obligation. The FNPRM inquires whether to expand the

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12 *Id.*, ¶ 49.

13 FEMA, *IPAWS National Test of the Emergency Alert System (EAS) and Wireless Emergency Alerts (WEA)* (Aug. 29, 2018), *available at* https://www.fema.gov/emergency-alert-test.

false alert reporting requirement adopted in the Order.[14] Additional reporting requirements are not necessary at this time. However, should the Commission consider such additional requirements, it should focus on parties with responsibility for and control over the content of alert messages.

Wireless carriers, as transmitters of alerts, are not well positioned to determine the validity of an alert message. New reporting requirements, if any, should be limited to alert originators or any party with actual knowledge that an alert is false.[15] In the Order, the FCC notes that "[i]f an EAS Participant has no actual knowledge that it has issued a false alert, then it would not be required to take any action."[16] The same rationale should apply with equal force to wireless carriers.

V. CONCLUSION

WEA messages serve as an important tool to provide critical information to Americans during emergencies. Carriers play a role in disseminating WEA messages, but the Commission should not lean upon them to measure alert performance due to the WEA distribution architecture and other technical challenges. AT&T encourages the FCC to work with the wireless industry and other stakeholders to find practical ways to improve the WEA system.

Respectfully submitted,

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14 FNPRM, ¶ 40.

15 If the Commission nonetheless makes false alert reporting mandatory for wireless carriers, the rules must provide a reasonable amount of time from discovery for a carrier to report. The five-minute timeframe discussed in the FNPRM would, if adopted, be unreasonable and totally unadministrable for carriers. *See* FNPRM, ¶ 40. For example, under the network outage reporting rules, wireline and wireless providers have 120 minutes to provide initial notifications of reportable outages to the Commission. *See* 47 C.F. R. § 4.9(e),(f).

16 R&O, ¶ 18.

By: /s/

Christi Shewman
Gary L. Phillips
David L. Lawson

AT&T SERVICES, INC.
1120 20th Street, NW
Suite 1000
Washington, DC 20036
(202) 457-3090 – phone

Attorneys for AT&T

Scott D. Delacourt
Katy M. Ross
Henry R. Gola
WILEY REIN LLP
1776 K Street, NW
Washington, DC 20006
(202) 719-7000 – phone
(202) 719-7049 – facsimile

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